

1407 MONTANA



BUILDING AND STANDARDS BOARD AGENDA ITEM # 4 FOR
WEDNESDAY, JULY 27, 2011

CODE COMPLIANCE DIVISION

MEMORANDUM

July 6, 2011

TO: The Honorable Chairman and Board Members

THROUGH: Kurt Fenstermacher, Deputy Director, Environmental Services Department

FROM: Bill Stern., Deputy Building Official

SUBJECT: 1407 Montana Avenue, El Paso, Texas 79902-5617

The following is a brief chronology of the investigation of the referenced location:

- 1) First investigated on September 30, 2010. This multistory structure was built in 1908, constructed of brick with stucco finish and a wood framed roof structure. Attempts to maintain the structure secure have become unsuccessful. The structure was found accessible to vagrants. The structure consists of the shell and exposed wood and metal framing due to an abandoned construction project. The roof and ceiling assembly system is in disrepair throughout the structure. The remaining walls are full of graffiti and holes. There are signs of settlement on the deck that is beginning to detach from the structure. There are weeds, trash and debris throughout the property.
- 2) A certified condemnation letter was mailed to John Lee, 1407 Montana Avenue, El Paso, Texas 79902 on May 2, 2011
- 3) Certified notices of the public hearing scheduled for July 27, 2011, were mailed to the owners and all interested parties on July 7, 2011.
- 4) As of July 6, 2011, no taxes are owed.

The owners have been notified of the property maintenance violations at this property. To date there has been no response or corrective action taken, and therefore the Division recommends that it be found:

- 1) That the structure is substandard, and unfit for habitation or use and a hazard to the public health, safety, and welfare; and
- 2) That the structure is not in substantial compliance with the municipal ordinances regulating fire protection, structural integrity, and disposal of refuse; and
- 3) That the structure's certificate of occupancy be revoked; and
- 4) That the structure can be rehabilitated; and
- 5) That the structure be secured within thirty (30) days, and maintained secure until repaired or demolished; and
- 6) That the premises be cleaned and maintained clean of all weeds, trash, and debris within thirty (30) days; and
- 7) That upon failure by the owner or any other interested party to comply with the order of the Building and Standards Commission the City may take whatever action is necessary to bring the property into compliance, and place a lien on the property for the work which will be done by the City.

CODE COMPLIANCE DIVISION

May 2, 2011

NOTICE OF VIOLATION

John Lee
1407 Montana Ave.
El Paso, Texas 79902-5617

Re: 1407 Montana Ave.
Blk: 7071 Franklin Heights
Lot: 7 & 8 & 42 & 43
Zoned: A-2
ENHS11-00339
7108 2133 3932 5904 6565

To All Owners, Lienholders, and Mortgagees:

An inspection at the above referenced address has revealed that the structure is in violation of the El Paso Municipal Code, Chapter 18.50, Property Maintenance Code, which states:

18.50.106.1 General.

When a structure or equipment is found by the Director to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure or equipment shall be condemned pursuant to the provisions of Chapter 2.38 of this code.

The El Paso Municipal Code Chapter 18.50 International Property Maintenance Code defines unsafe structure as follows:

18.50.106.1.1 Unsafe Structures.

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

18.50.106.1.2 Unsafe Equipment

Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers, or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

18.50.106.1.3 Structure Unfit for Human Occupancy.

A structure is unfit for human occupancy whenever the Director finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth or contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public

The structure located at **1407 Montana Ave., El Paso, Texas, 79902** is in violation of the requirements found in the following sections of the 2003 International Property Maintenance Code as adopted in the El Paso City Code, Chapter 18.50, Property Maintenance Code:

- a. The floors have not been maintained in a safe manner. [Sec. 305.4]
- b. The walls have not been maintained in a safe manner free of holes and cracks. [Sec. 304.6]
- c. The roof structure has not been maintained free of defects that may cause leaks. [Sec. 304.7]
- d. The means of egress is/are inadequate and do not meet minimum code requirements. [Sec. 702.4]
- e. The plumbing system is inadequate and does not meet minimum code requirements. [Sec. 504.1]
- f. The electrical system is inadequate and does not meet minimum code requirements. [Sec. 604.3]
- g. The HVAC system is inadequate and does not meet minimum code requirements. [Sec. 603.1]
- h. The structure is open and accessible to unauthorized entry. [Sec. 301.3]
- i. The premises are full of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].
- j. The structure needs to be secured from unwanted entry and ongoing vandalism, and the premises need to be cleaned of all trash and debris within (30) days from receipt of this letter. [Sec. 108.2]
- k. The repairs to the structural elements and/or service systems referred to in the previous sections must be completed within 30 days of your receipt of this letter. If, due to the scope and complexity of the work more time is needed, you must make this request to the Building and Standards Commission at a hearing scheduled by this department.

As a result of the aforementioned violations, the following action may be taken:

- a. This case is being submitted to the City Building and Standards Commission for unsafe structures proceedings. The City Building and Standards Commission will decide if the structure is unsafe and if it should be vacated and secured, or demolished as per Chapter 2.38 of the El Paso Municipal Code.
- b. By authority of Chapter 18.02.103.9.3 of the El Paso Municipal Code the electrical service at this property may be disconnected at the request of the Building Permits and Inspections Department because of Electrical Code violations.

Many of these corrections will require a permit. Permits for commercial or rental property must be taken out by a bonded and insured contractor who is registered with the City of El Paso.

According to the real property records of El Paso County, you own the real property described in this notice. If you no longer own the property, you must execute an affidavit stating that you no longer own the property and stating the name and last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to the Code Compliance Division office, 7969 San Paulo Dr., El Paso, Texas, 79907, no later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice, even if you do not.

Should you have any questions regarding this matter, please contact me at 599-3691.

Nellie Avalos
Building Inspector

MA/nms

NOTICE OF PUBLIC HEARING

To All Interested Parties:

You are hereby notified that at 5:30 p.m. on the **27th** day of **July, 2011** in the Council Chambers of City Hall, #2 Civic Center Plaza, El Paso, Texas, the Building and Standards Commission of El Paso (the “**Commission**”) will hold a public hearing on the question of whether the building located on the property at **1407 Montana Avenue**, in El Paso, Texas, which property is more particularly described as:

Legal Description: Lots 7, 8, 42 and 43, Block 70 (a/k/a Blocks 70 and 71), SECOND SUPPLEMENTAL MAP OF FRANKLIN HEIGHTS ADDITION, an addition to the City of El Paso, El Paso County, Texas, according to the map thereof on file in Book 9, Page 63, Plat Records of El Paso County, Texas.

is unsafe and dangerous, because of the following violations:

- a. The floors have not been maintained in a safe manner. [Sec. 305.4]
- b. The walls have not been maintained in a safe manner free of holes and cracks. [Sec. 304.6]
- c. The roof structure has not been maintained free of defects that may cause leaks. [Sec. 304.7]
- d. The means of egress is/are inadequate and do not meet minimum code requirements.[Sec. 702.4]
- e. The plumbing system is inadequate and does not meet minimum code requirements. [Sec. 504.1]
- f. The electrical system is inadequate and does not meet minimum code requirements. [Sec. 604.3]
- g. The HVAC system is inadequate and does not meet minimum code requirements. [Sec. 603.1]
- h. The structure is open and accessible to unauthorized entry. [Sec. 301.3]
- i. The premises shall be maintained in a clean, safe and sanitary condition free of weeds, trash, and debris [Sec. 302.1 & Sec. 302.4].
- j. The structure needs to be secured from unwanted entry and ongoing vandalism, and the premises need to be cleaned of trash and debris within (30) days from receipt of this letter. [Sec. 108.2]

According to the real property records of the County of El Paso, Texas, John Lee, 1407 Montana Avenue, El Paso, Texas, 79902-5617, Rocky Mountain Mortgage Company, 2244 Trawood, El Paso, Texas, 79935, First Savings Bank, 909 North Mesa

Street, El Paso, Texas, 79902 and Victor Firth, 1014 North Mesa Street, Suite 300, El Paso, 79901, ("the **Owners**") are listed as the owners of the real property described herein.

According to the real property records of El Paso County, you own or have an interest in the real property described in this notice. If you no longer own or have an interest in the property, you must execute an affidavit stating that you no longer own or have an interest in the property and stating the name and last known address of the person who acquired the property or interest from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to the Building Standards Enforcement Division of the Environmental Services Department, 7969 San Paulo Drive, El Paso, Texas, 79907, no later than the 20th day after the date you receive this notice. If you do not send the affidavit, it will be presumed that you own the property described in this notice.

The Owners of said property are hereby ordered to appear before the Building and Standards Commission and any mortgagees, lien holders, and other persons having an interest in said property are entitled to appear before the Commission at said date, hour, and place to show cause why said building should not be declared a nuisance and ordered to be abated. The Owners, lien holders, mortgagees, or any other person having an interest in the property is hereby required to submit at the hearing proof of the scope of any work that may be required to bring the building into compliance with Title 18, as mandated by Section 18.50 of the Municipal Code, and to specify the time it will take to reasonably perform the work.

At the hearing, the Owners, lien holders, mortgagees, or any other person having an interest in the property must present to the Commission any evidence showing that the structure or part thereof is safe.

All documents such as building plans, specifications, drawings, reports from design professionals and any other required documents must be presented to the Commission at this hearing.

The time periods, which govern the completion of work ordered by the commission, are outlined in Chapter 2, Subsection 2.38.080 of the Municipal Code of the City of El Paso, and pursuant to State law.

If the Owners fail, neglect or refuse to comply with the order of the Commission the City may pursue one, or more of the following actions:

- I) the city will perform any and all work needed to bring the property into compliance with this order, at its own expense, but for and on account of the Owners, of said property, the cost of which shall be assessed as a lien against the property and;
- II) assess a civil penalty against the property Owners for failure to repair, remove or demolish said building in an amount not to exceed \$1,000.00 a day for each violation, or \$10.00 a day if the Owners show that the property is the Owner's lawful homestead; and
- III) appoint a receiver as permitted by state law; and

IV) any other remedies permitted by state law.

Any civil penalty or assessment imposed will accrue interest at a rate of ten (10) percent a year from the date of the assessment until paid in full;

The City Clerk is ordered to provide notice of this hearing to the record Owners and all other persons having an interest in the property as provided by law.

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Robert Almonte II
Assistant City Attorney

Bill Stern, C.B.O.
Deputy Building Official
Code Compliance Division

I certify that a true and correct copy of the foregoing Notice regarding the property at 1407 Montana Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

John Lee
1407 Montana Avenue
El Paso, Texas 79902

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 1407 Montana Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Rocky Mountain Mortgage Company
2244 Trawood
El Paso, Texas 79935

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 1407 Montana Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

First Savings Bank
909 North Mesa Street
El Paso, Texas 79902

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 1407 Montana Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Victor Firth
1014 North Mesa Street, Suite 300
El Paso, Texas 79901

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 1407 Montana Avenue was HAND-DELIVERED to:

City of El Paso
C/O City Clerk
#2 Civic Center Plaza
El Paso, TX 79901

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 1407 Montana Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Governor of the Ysleta Del Sur Pueblo Indian Tribe
AKA Tigua Indian Community
119 S. Old Pueblo Road
El Paso, Texas 79907

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 1407 Montana Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

El Paso Central Appraisal District
5801 Trowbridge Ave.
El Paso, Texas 79925

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 1407 Montana Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

El Paso County Probate Court
500 E. San Antonio Avenue, Suite 703
El Paso, Texas 79901

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice regarding the property at 1407 Montana Avenue was MAILED CERTIFIED-RETURN RECEIPT REQUESTED to:

Delgado, Acosta, Spencer
Linebarger, Heard & Perez, LLP
Attn: Bonnie Cooper
221 N. Kansas Suite 1400
El Paso, TX 79901

Date:
Time:

Inspector

I certify that a true and correct copy of the foregoing Notice was POSTED at 1407 Montana Avenue El Paso, Texas.

Date:
Time:

Inspector



UNSAFE STRUCTURES REPORT

CODE COMPLIANCE DIVISION

DATE OF EXAMINATION: July 16, 2011

REP. DISTRICT: 8

ADDRESS: 1407 Montana Avenue

ZONED: A-2

LEGAL DESCRIPTION: Lots 7, 8, 42 and 43, Block 70 (a/k/a Blocks 70 and 71), SECOND SUPPLEMENTAL MAP OF FRANKLIN HEIGHTS ADDITION, an addition to the City of El Paso, El Paso County, Texas, according to the map thereof on file in Book 9, Page 63, Plat Records of El Paso County, Texas.

OWNER: John Lee

ADDRESS: 1407 Montana Avenue
El Paso, TX 79901

BUILDING USE: Abandoned multistory structure

TYPE OF CONSTRUCTION: Type V, masonry and brick

FOOTINGS: Concrete

CONDITION: Unable to determine condition, footings are underground and must be evaluated by an engineer to determine actual condition.

FOUNDATION WALL: Combination of masonry rock, CMU and concrete with mortar grout.

CONDITION: Poor. Showing signs of deterioration due to lack of maintenance.

FLOOR STRUCTURE: 2 x 8 wood covered with plywood

CONDITION: Poor. The floor systems contain several holes and are deteriorated due to lack of maintenance. A structural engineer should be hired to evaluate the actual condition.

EXTERIOR WALLS: Brick covered by stucco and unfinished wood framed addition w/sheetrock covering.

HEIGHT: 25' +/-

THICKNESS: 10" +/-

CONDITION: Poor. Some structural deficiencies were found. The sheetrock on the unfinished addition contains many holes and is deteriorated due to exposure to the elements and vandalism. A structural engineer should be hired to evaluate structural elements of the buildings.

INTERIOR WALLS & CEILINGS: Metal framing and 2 x 4 wood studs covered with sheetrock and plaster in some areas.

CONDITION: Poor. Most of the wall coverings have been removed exposing the wood and metal framing. The few remaining walls are full of graffiti.

ROOF STRUCTURE: Wood framing covered w/composition shingles.

CONDITION: Poor. The roof system is deteriorated due to lack of maintenance and exposure to the elements and does not exist in the rear of the structure. A licensed roofing contractor in the state of Texas should be hired to evaluate the roofing system.

DOORS, WINDOWS, ETC.: Wood frame and metal frame windows, wood doors some w/wrought iron guards.

CONDITION: Poor. Several windows are broken due to vandalism and most glass needs to be replaced. Doors need to be replaced.

MEANS OF EGRESS: No exit stairs at rear second floor.

CONDITION: Poor.

PLUMBING: Poor. A licensed plumbing contractor must be hired to evaluate the entire plumbing system and submit a report to this department on the corrective action required to bring the system up to minimum code compliance.

ELECTRICAL: Poor. A licensed electrical contractor must be hired to evaluate the entire electrical system and submit a report to this department on the corrective action required to bring the system up to minimum code compliance.

MECHANICAL: Poor. A licensed mechanical contractor must be hired to evaluate the entire mechanical system and submit a report to this department on the corrective action required to bring the system up to minimum code compliance.

IF CONDEMNED, HOW MANY PERSONS WILL BE AFFECTED: None

WARNING POSTED: Yes **BARRICADED:** No **POLICE AID REQD.:** No

REMARKS: The open and abandoned multistory structure was built in 1908. Efforts to maintain the structure secure have become unsuccessful and entry by vagrants continues. The division recommends that the property be secured until repaired or demolished. That the property be cleaned of all weeds, trash and debris within thirty (30) days.

Nellie Avalos
Building Inspector